

**UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
v.	)	<b>Criminal No. 1:11-cr-115</b>
	)	
<b>JORGE AVILA TORREZ,</b>	)	<b>The Hon. Liam O’Grady</b>
	)	
<b>Defendant.</b>	)	
	)	

**DEFENDANT’S NON-CONFIDENTIAL MEMORANDUM ACCOMPANYING ITS  
MOTION FOR A PROTECTIVE ORDER PROVIDING PROSPECTIVELY FOR  
FILING DOCUMENTS UNDER SEAL PURSUANT TO LOCAL RULE 49(E)**

The Defendant, Jorge Avila Torrez, by counsel and pursuant to Local Rule 49(E) of the Local Criminal Rules for the United States District Court for the Eastern District of Virginia, asks for an Order sealing the documents attached to this Motion to Seal.

**I. Items to be Sealed and Necessity for Sealing**

1. The defendant asks the Court to seal Defendant’s Motion to Substitute Counsel and attached exhibit filed on February 8, 2013.

2. Sealing is necessary in order to ensure that information contained in the attached filing remains confidential. Counsel for the defendant has considered procedures other than sealing and none will suffice to protect this information from disclosure.

**II. Previous Court Decisions Which Concern Sealing Documents**

3. The Court has the inherent power to seal materials submitted to it. “The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public’s right of access is outweighed by competing interests.” *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984). As the Fourth Circuit explained in *United States v. Smith*, 640 F.3d

580, 594 (2011), information relevant to a motion to substitute counsel involving attorney-client communications is appropriately considered “in the absence of government counsel.” Sealing is also appropriate where there is a substantial probability that the release of the sealed document would compromise the defendant’s theories of his defenses to the prosecution. *See e.g., In re Search Warrant for Secretarial Area Outside Office of Gunn*, 855 F.2d 569 (8th Cir. 1988); *Matter of Eye Care Physicians of America*, 100 F.3d 514, 518 (7th Cir. 1996); *Matter of Flower Aviation of Kansas, Inc.*, 789 F. Supp. 366 (D. Kan. 1992).

WHEREFORE, the Defendant respectfully requests that an Order be entered allowing Defendant’s Motion to Substitute Counsel to be placed Under Seal. An appropriate Order is attached.

Respectfully submitted,  
Jorge Avila Torrez  
By Counsel

\_\_\_\_\_/s/  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 8<sup>th</sup> day of February, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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